

REMARKS

This Reply is accompanied by an Interview Summary.

Applicant amended claim 32 to change "nondirected" to "non-directed" for consistency.

The examiner required restriction as follows:

I. Claims 1-17 and 34-39, drawn to a system and method for trading of securities in an electronic trading venue, the method comprising entering at a client computing system an order executable against any participant that can at least in part satisfy the order, the client station including a display that renders a graphical user interface; choosing through the graphical user interface rendered on the display a priority type for how the order interacts with contra side quotes/orders in the trading venue classified in class 705, subclass 37. A utility of this group of claims is choosing through the graphical user interface rendered on the display a priority type for how the order interacts with contra side quotes/orders in the trading venue.

II. Claims 7-12 drawn to a computer program product and a system for an electronic trading venue for trading of securities, the computer program product comprising instructions for causing a computer to: receive an order entered from a client station, the order to buy or sell a specified quantity of a security, the order of a type that is executable for execution against any participant that can at least in part satisfy at least a portion of the specified quantity of the order; and determine from the received order a priority type for how the order interacts with contra side quotes/orders in the trading venue; and execute the order against contra-side interest according to the determined priority type, classified in class 705, subclass 37. A utility of this group of claims is executing the order against contra-side interest according to a determined priority type.

Applicant elects Group I, claims 1-17 and 34-39, **WITH TRAVERSE** because the restriction requirement is erroneous on its face. The Group I claims 1-17 and 34-39 while not strictly drawn "to a system and method for trading of securities in an electronic trading venue" but to "A system for an electronic venue for trading of securities" the reasons for subdividing out the Group II claims are clearly inaccurate. Contrary to the examiner's stated reasons "II. Claims 7-12 drawn to a computer program product and a system for an electronic trading venue for trading of securities" Claims 7-12 are instead drawn either directly or indirectly to the system of claim 1. These claims are not computer program product claims or a system different from claim 1, but are instead merely further limiting the scope of claim 1. In addition, the claims of Group II are already encompassed within Group I.

The examiner has otherwise furnished any reasons that Applicant can respond to otherwise show the error in the examiner's reasoning. Therefore, pending clarifying comments from the examiner, Applicant will point out briefly some of the defects in this requirement.

Applicant notes that claim 7 for instance, calls for "The system of claim 1 wherein one of the priority types is price/time that accounts for Electronic Commerce Network (ECN) access fees priority." This claim specifies a priority type in claim 1, namely defining, "... to choose a priority type for how the order interacts with contra side quotes/orders in the trading venue." Claim 7, as with claim 1, were originally filed claims and while amended were not amended in a manner that changed in substance the subject matter of the claims. Accordingly, because these claims were not restricted out prior to final action this requirement is improper. In addition, claim 7 further limits claim 1, but does not add a new element to claim 1. Rather, claim 7 merely recites one of the types of priority that can be selected in the interface of claim 1.

In addition, the examiner argued that "The inventions are distinct, from each other because **"The inventions are related as subcombinations disclosed as usable together in a single combination."** The examiner has not shown claim 7 to be a subcombination of claim 1.

The examiner also stated that **"Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above"** Applicant however traverses because the examiner has not given any reasons why the groups are independent or distinct.¹ The examiner also argued that: **"... there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:"** The examiner has not shown that any of these reasons exist.

Reason 1:

(a) **the inventions have acquired a separate status in the art in view of their different classification;**

The examiner has not shown that they have different classifications. In fact the examiner admits that they have the same classification "705, subclass 37."

¹ Applicant does not concede that the examiner must merely show one or the other, but rather it is Applicant's contention that the examiner must show both.

Reason 2:

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

The examiner has not shown that they have acquired a separate status or that there is divergent subject matter.

Reason 3:

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

The examiner has not shown that the groups would require a different field of search, different classes/subclasses or search queries. Indeed Applicant contents that the subject matter of each of the groups would have the same field of search, classes/subclasses and search queries.

Reason 4:

(d) the prior art applicable to one invention would not likely be applicable to another invention;

The examiner has not shown that the prior art applicable to Group I would not also be applicable to Group II. This is borne out by the examiner's use of the same prior art against these claims previously.

Reason 5:

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The examiner has not shown that the groups would raise different non prior art rejections, e.g., under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph..

Applicant has made this election **WITH TRAVERSE** and has reserved its right to petition to remove the requirement. Applicant has distinctly and specifically point out errors in the restriction requirement, in so far as the restriction can be understood.

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Respectfully submitted,

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